

**UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

Robert Stanley Winburn,

Petitioner, Case No. 20-13045

v.

Judith E. Levy  
United States District Judge

Noah Nagy,

Respondent.

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**ORDER DENYING PETITIONER'S  
MOTIONS [22, 23, 24, 26, 29, 32]**

Robert Stanley Winburn (“Petitioner”), an inmate at the G. Robert Cotton Correctional Facility currently awaiting re-trial on charges of first-degree home invasion, armed robbery, and conspiracy to commit first-degree home invasion in the Washtenaw County Circuit Court, filed a pro se petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. In his petition, he raised a double jeopardy claim challenging his pending, ongoing state prosecution, as well as claims concerning his relationship with standby counsel during the prior and current proceedings.

On January 14, 2021, the Court issued an Opinion and Order denying the habeas petition, denying motions that were pending at that

time, denying a certificate of appealability, and denying leave to proceed in forma pauperis on appeal. (ECF No. 20.)

The matter is now before the Court on Petitioner's motions for bond (ECF No. 22), to hold any exhaustion dismissal to be without prejudice (ECF No. 23), to take judicial notice (ECF No. 24), for summary judgment (ECF No. 26), and for reconsideration (ECF Nos. 39, 32, respectively).<sup>1</sup>

Given the Court's dismissal of the habeas petition, Petitioner's motions for bond, to hold any exhaustion dismissal to be without prejudice, to take judicial notice, and for summary judgment are now moot. Accordingly, the Court **DENIES** these motions.

This leaves Petitioner's motions for reconsideration. Other than pagination, Petitioner's two motions for reconsideration—one dated on January 22, 2021 and the other dated January 25, 2021—are identical. (ECF No. 32, 29.) A motion for reconsideration which presents issues already ruled upon by a district court, either expressly or by reasonable

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<sup>1</sup> Petitioner's motions, and the Court's January 14, 2021 decision, were likely subject to mailing and/or filing delays, which accounts for the unusual listing of entries on the Court's docket. And, accordingly, ECF Nos. 22, 23, and 24 were already terminated on the Court's docket, though not specifically addressed yet.

implication, will not be granted. *Hence v. Smith*, 49 F. Supp. 2d 547, 550 (E.D. Mich. 1999); *Czajkowski v. Tindall & Assoc., P.C.*, 967 F. Supp. 951, 952 (E.D. Mich. 1997). Petitioner raises such issues in his motion. The Court properly denied relief on his claims for the reasons stated in its opinion.

Moreover, the Court has the authority to deny relief on the merits based upon the record before the Court without awaiting an answer from Respondent. *See, e.g., Allen v. Perini*, 424 F.2d 134, 141 (6th Cir. 1970). Whether and how the government responds does not alleviate a habeas petitioner's burden to prove that he or she is entitled to relief. *See United States v. Bawgus*, 782 F. App'x 408, 410 (6th Cir. 2019) (citing cases). The Court reviewed the habeas petition and the relevant state-court record (as referenced in the petition and submitted by Respondent) and denied habeas relief. (ECF No. 20.) Petitioner fails to meet his burden of showing a palpable defect by which the Court has been misled or his burden of showing that a different disposition must result from a correction thereof, as required by Eastern District of Michigan Local Rule 7.1(h)(3). Reconsideration is unwarranted. Accordingly, the Court **DENIES** Petitioner's motions for reconsideration.

**IT IS SO ORDERED.**

Dated: April 8, 2021  
Ann Arbor, Michigan

s/Judith E. Levy  
JUDITH E. LEVY  
United States District Judge

**CERTIFICATE OF SERVICE**

The undersigned certifies that the foregoing document was served upon counsel of record and any unrepresented parties via the Court's ECF System to their respective email or First Class U.S. mail addresses disclosed on the Notice of Electronic Filing on April 8, 2021.

s/William Barkholz  
WILLIAM BARKHOLZ